

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

QUINN AARON KLEIN,)
vs.)
Plaintiff,)
vs.) NO. CIV-09-1364-HE
CHRISTOPHER PEUGH, et al.,)
Defendants.)

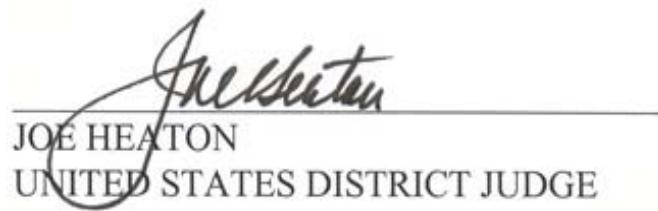
ORDER

Quinn Aaron Klein, a state prisoner appearing *pro se*, filed this action alleging violations of his constitutional rights. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Bana Roberts for initial proceedings. She has recommended that the action be dismissed without prejudice due to the plaintiff's failure to pay the initial partial filing fee of \$4.90 by January 4, 2010, as directed by the court. She also recommended that the plaintiff's motion requesting that the initial filing fee be waived be denied due to the plaintiff's failure to demonstrate an inability to pay the fee.

The plaintiff has not made the required partial payment, sought an extension within which to do so or shown good cause for his failure to pay the initial fee. He also failed to object to the Report and Recommendation, thereby waiving his right to appellate review of the issue it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See* 28 U.S.C. § 636(b)(1)(C); LCvR72.1. Accordingly, the court adopts the Report and Recommendation of Magistrate Judge Roberts, denies the petitioner's motion to waive initial fee [Doc. #9], and denies as moot his motions for order for service [Doc. #4] and to appoint counsel [Doc. #3]. This action is **DISMISSED** without **PREJUDICE**.

IT IS SO ORDERED.

Dated this 16th day of February, 2010.



Joe Heaton
UNITED STATES DISTRICT JUDGE